



# **KANSAS ATTORNEY GENERAL**

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## **Derek Schmidt**

# **Medicaid Fraud and Abuse Division**

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## **Annual Report**

Kansas Fiscal Year 2014  
July 1, 2013 – June 30, 2014

120 SW 10<sup>th</sup> Ave., 2<sup>nd</sup> Floor • Topeka, KS 66612-1597 • (785) 368-6220

[www.ag.ks.gov](http://www.ag.ks.gov)

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Attorney General Derek Schmidt has made protecting Kansans from fraud a priority since taking office January 10, 2011. Attorney General Schmidt has demonstrated his willingness to devote the necessary resources and time to aggressively investigate and prosecute those who commit fraud against the Medicaid program, as well as those who abuse and exploit the elderly.



The Medicaid Fraud and Abuse Division of the Kansas Attorney General's Office (the Unit) is the Medicaid Fraud Control Unit (MFCU) for the State of Kansas pursuant to Kansas Statutes Annotated 75-725. This annual report covers the reporting period of July 1, 2013, through June 30, 2014, and provides the information required by 42 C.F.R. 1007.17.

### ***Purpose of the Medicaid Fraud Control Unit***

The Kansas MFCU is the agency of state government established to deter and combat fraud, waste and abuse committed against the Kansas Medicaid program. This is accomplished by investigating and taking appropriate criminal or civil action against Medicaid providers defrauding the Kansas Medicaid program. The MFCU is also responsible for investigating and prosecuting, or referring for prosecution, crimes of abuse, neglect or exploitation committed against patients being cared for in residential care facilities.

In completing these tasks, the MFCU maintains a staff of qualified attorneys, investigators and auditors (analysts), all knowledgeable about the provision of medical assistance and the operation of health care providers. The United States Department of Health and Human Services, Office of Inspector General provides funding and works with the MFCU as necessary.

### ***Mission Statement of the Unit***

Improving health care services to Kansans by identifying and preventing fraud, waste and abuse committed by health care providers against the Kansas Medicaid program and health care recipients.

## ***History of the Unit/Authority to Prosecute***

The Unit is a division of the Kansas Attorney General's Office that was established in 1995, operating under the statutory authority granted at Kansas Statutes Annotated 75-725 and 21-5927, et seq. The Unit received its initial certification in 1995 and has been granted recertification each year since.

The Unit receives specific authority to investigate and litigate from K.S.A. 75-725, which provides:

- “(a) There is hereby created within the office of the attorney general a medicaid fraud and abuse division.
- (b) The medicaid fraud and abuse division shall be the same entity to which all cases of suspected medicaid fraud shall be referred by the department of social and rehabilitation services, or its fiscal agent, for the purpose of investigation, criminal prosecution or referral to the district or county attorney for criminal prosecution.
- (c) In carrying out these responsibilities, the attorney general shall have:
  - (1) All the powers necessary to comply with the federal laws and regulations relative to the operation of the medicaid fraud and abuse division;
  - (2) the power to investigate and criminally prosecute violations of K.S.A. 2013 Supp. 21-5926 through 21-5934, 75-725 and 75-726, and amendments thereto;
  - (3) the power to cross-designate assistant United States attorneys as assistant attorneys general;
  - (4) the power to issue, serve or cause to be issued or served subpoenas or other process in aid of investigations and prosecutions;
  - (5) the power to administer oaths and take sworn statements under penalty of perjury;
  - (6) the power to serve and execute in any county, search warrants which relate to investigations authorized by K.S.A. 2013 Supp. 21-5926 through 21-5934, 75-725 and 75-726, and amendments thereto; and
  - (7) the powers of a district or county attorney.”

## ***Compliance with Federal Performance Standards***

The Unit is required to comply with specific performance standards outlined by the federal government. This Annual Report, along with the responses to the Recertification Questionnaire, will demonstrate that the Unit is in compliance with each of the Federal Performance Standards.

## ***Funding***

The Unit is funded 75% by the federal grant and 25% by State of Kansas matching funds. The total budget approved for federal fiscal year 2014 is \$1,630,256.00, which includes indirect costs.

A copy of the FY2014 Notice of Award for the Unit is included as Appendix A.

## **Staffing/Qualifications**

The Unit is currently staffed with a Deputy Attorney General, who serves as the Director of the Unit, two (2) Assistant Attorneys General, four (4) Analysts/Auditors, a Special Agent-In-Charge, five (5) Special Agents, and an Administrative Assistant.

### **Director/Deputy Attorney General**

The Director of the Unit is a Deputy Attorney General, having worked for the Kansas Attorney General's Office for nearly twelve (12) years and having more than ten (10) years experience prosecuting white collar and other crimes in the Unit. The Director is cross-designated as a Special Assistant United States Attorney, having led or participated in numerous federal fraud cases.

### **Assistant Attorneys General**

The Assistant Attorneys General have varied experiences that make them vital to the Unit. One has an extensive background in criminal prosecution, white collar and violent crimes, as well as supervisory experience from his previous employment. The other prosecutor came to us from a civil background. She has developed into an outstanding prosecutor and serves as a Special Assistant United States Attorney for the Unit.

### **Special Agents**

The Special Agent in Charge has extensive experience investigating all types of crime. Before joining the Unit he served as the Sheriff of Jackson County, Kansas, on two separate occasions. He brings supervisory skills, extensive knowledge and practical experience to the Unit.

All six Special Agents are certified Law Enforcement Officers, with a combined total of over 123 years of experience between them, each possessing special skills that make them very valuable to the Unit.

### **Analysts/Auditors**

The analysts are headed by our Senior Analyst. She came to the Unit after having worked for more than 35 years for the Medicaid program in various capacities. She brought with her a wealth of knowledge about the Kansas Medicaid program and serves a vital role in the case evaluation process. She also is a Certified Fraud Examiner.

The other three members of our audit team bring varying experiences to the Unit. One fills multiple roles in the Unit, serving also as an Assistant Attorney General and the Unit's IT specialist. His primary role is to handle data analysis in global matters in which the State participates. His technical background has been invaluable in assisting with data requests and analysis in cases investigated by the Unit. Another of the analysts brings a tremendous amount of Medicaid program experience, having served as the Surveillance and Utilization Review Subsystem (SURS) manager prior to joining the Unit. She also has experience in completing financial analysis. The third, and most recent addition to the analyst team, has more of an auditing background, with extensive technological experience.

### **Administrative Assistant**

Finally, the Unit has one support staff, an administrative assistant. She serves as the Unit's office manager, responsible for keeping up with the day-to-day responsibilities of the Unit. In addition, her paralegal background allows her to assist the attorneys with litigation work, and she provides assistance to the investigative staff as necessary.

An organizational chart of the Unit is included as Appendix B, as is an organizational chart of the Kansas Attorney General's Office.

## ***Training***

The Unit has committed itself to providing each and every staff member with the opportunity to experience a wide variety of training targeted at educating them on the skills and techniques needed to understand and perform the duties related to their respective positions. It remains the focus of the Unit to seek out and provide training opportunities to Unit staff that will serve them in their various capacities as employees of the Unit.

A chart detailing all training received by the staff of the Unit is included as Appendix C.

## ***Partnerships and Other Collaborations***

The Unit has long recognized the importance of working with other agencies in the pursuit of healthcare fraud, as well as in matters of abuse, neglect and exploitation. Throughout this reporting period the Unit has continued to partner with groups that focus on prevention of healthcare fraud, as well as prevention of abuse of patients and the elderly. These partnerships have allowed Unit staff to network with experts in the field that will later be in a position to assist the Unit with cases.

### **Kansas Medicaid Program – Division of Health Care Finance (DHCF)**

The Unit continues to maintain a good working relationship with the Single State Agency to ensure that suspected cases of provider fraud are referred, that provider records and data necessary to investigations are able to be obtained, that assistance in recovery of overpayments is given, and that payment of claims to providers in cases of credible allegations of fraud are suspended. To support this relationship the Unit has a Memorandum of Understanding with the Single State Agency outlining the responsibilities of the Single State Agency and its contractors, as well as the Unit. The Single State Agency has been extremely accommodating and remains very willing to work with and listen to Unit staff as we continue to adjust to the recent conversion from fee-for-service to managed care. This relationship continues to see marked improvement, with all parties expressing a continued interest in improving the overall process of protecting the integrity of the Kansas Medicaid program.

The Unit conducts monthly program integrity meetings, which are regularly attended by the program integrity staff of the Single State Agency, staff from the fiscal agent of the Single State Agency, staff from the Kansas Department for Aging and Disability Services (KDADS), which oversees the waiver programs, and program integrity staff of the three (3) Managed Care Organizations (MCOs) that have contracted with the Single State Agency.

Ongoing communication is key to the effective development of and sharing of information necessary to open and pursue investigation and potential litigation of healthcare fraud cases. In an effort to foster the communication and understanding, the Unit is developing a one day training program that will be offered to the Single State Agency and program integrity staff of the MCOs in the upcoming year. The program is being designed to improve the MCOs and Single State Agency's understanding of the Unit's role in the fraud detection and prevention process, as well as to improve the procedures for and quality of the referrals to the Unit.

## **Kansas Department of Health and Environment, Office of Inspector General**

Currently the position of Inspector General (IG) is vacant. Prior to the vacancy the Director met regularly with the IG and the IG participated in the monthly program integrity meetings held by the Unit. During the past year the IG's office initiated a review of the Home and Community Based Services (HCBS) program, focusing on instances in which the services billed to Medicaid simply could not have been provided because the care attendant was working at another job. The IG's office referred approximately 35 instances of suspected fraud to the Unit in the past year involving HCBS care attendants causing claims to be submitted to the Medicaid program where it appeared that the services could not have been provided for one or more reasons. These referrals have resulted in 13 new cases that either have been investigated or are in the process of being investigated by the Unit.

The Director of the Unit continues to serve as a member to the Audit Committee responsible for providing guidance to the IG in conducting audits of the Kansas Medicaid program.

## **United States Attorney's Office**

The Unit has benefited from a healthy working relationship with a number of federal agencies. Of particular note is the work that has been accomplished in collaboration with the United States Attorney's Office for the District of Kansas (USAO). The Unit has consistently been invited to actively participate in both criminal and civil matters involving the USAO. Furthermore, the USAO has permitted SAUSA's within the Unit to file criminal proceedings in United States District Court.

The Unit has also benefitted from being part of working groups sponsored by the USAO. Many of the Unit's staff serve as active participants in the Kansas Healthcare Fraud Working Group (KHFWDG) which is a collaborative effort of the USAO and the Unit. As a member of the KHFWDG, the Unit has been relied upon to provide guidance and training at the quarterly meetings. Members of the Unit's staff are also members and active participants in the Kansas City Metro Healthcare Fraud Working Group (KCMHFWDG), which is jointly sponsored by the Federal Bureau of Investigation (FBI) and the United States Attorneys' Office for the Districts of Kansas and the Western District of Missouri. Membership in each of these working groups has provided tremendous opportunities for networking, even across the Kansas-Missouri border.

## **Department of Health and Human Services, Office of Inspector General, Office of Investigations (HHS-OIG-OI)**

The Unit has longstanding working relationships with a number of federal agencies which includes the Federal Bureau of Investigations (FBI), Social Security Administration (SSA) and the Drug Enforcement Administration (DEA), to name a few. The Unit has a tremendous partnership with the regional office of the HHS-OIG-OI. Until this past year HHS-OIG-OI had offices in both Kansas City and Wichita. The Wichita office has since been consolidated into the Kansas City office. HHS-OIG-OI, has demonstrated a willingness to assist the Unit in cases throughout the state. Many of the Unit's cases now involve cooperative efforts of agents from the Unit and HHS-OIG-OI.

The Unit values the relationship that has been developed with HHS-OIG-OI and will continue to work to further develop this relationship, exploring additional areas where collaboration will be effective.

## **Other Governmental Entities**

In an ongoing effort to educate others on the harmful effects of fraud, waste and abuse, the Unit has sought to partner with groups and agencies that foster public awareness. For example, the Unit serves a member of the Topeka Coalition against Adult Abuse (TCAA), which involves a number of local agencies, as well as the local prosecutor's office and law enforcement. From this relationship the Unit has been able to reach out to a number of other agencies in order to develop awareness.

The Unit has a position on the Kansas Adult Protective Services Advisory Committee, which was established by the Department for Children and Families (DCF), formerly the Department of Social and Rehabilitation Services, in response to complaints about the State's perceived failure to respond to reports of abuse against vulnerable adults. Membership on this committee has provided a tremendous opportunity to work directly with DCF and other state agencies, as well as concerned individuals throughout the State of Kansas, which receive and respond to reports of abuse, neglect and exploitation both in and outside of adult care facilities.

The Unit also has two staff members who serve on the Attorney General's Senior Consumer Protection Advisory Council. This council has been tasked with creating awareness of dangers to the elderly and other vulnerable adults and discussing means of education and prevention. The council also encourages agencies to create and sustain working partnerships so outreach can be done quickly on new concerns.

Finally, the Unit works closely with several regulatory and licensing entities. These include, but are not limited to, the following:

- Kansas Board of Healing Arts
- Kansas Board of Nursing
- Kansas Department for Children and Families
- Kansas Department for Aging and Disability Services
- Kansas Insurance Department
- Kansas Board of Pharmacy
- Kansas Dental Board
- Office of the Kansas Long-Term Care Ombudsman

As additional opportunities to enter into relationships that will further the objectives of the Unit present themselves, efforts will be made to collaborate with those entities.

### **Managed Care**

In this the second year of managed care in Kansas, three main issues have surfaced that can have an impact on meeting the Unit's mission and objectives. The issues involve claims data, program manuals, and communication.

As to the issue of claims data, the encounter data that is made available to the Unit still does not supply all of the information needed to complete a thorough review of the cases being investigated. Each MCO maintains its own database of claims information. A portion of that data is then submitted to the Medicaid Management Information System (MMIS) in order to have a centralized database containing the basic claims information. There is still information that is either not being provided or is not provided in a format that makes it usable to the Unit's analysts. Specifically, it is common for claims to be adjusted after they are reviewed by the MCO after they have been paid. Based upon the review the claim may then be adjusted. Under the current system it is difficult, if not impossible; to identify which claims the adjustments apply to. When analyzing which claims have been paid, and how much has been paid, it is necessary to be able to identify all of the information relating to a specific claim. This issue has been communicated to the Single State Agency and the MCOs. Work is ongoing to correct the encounter data and make it more user friendly for investigative purposes. In the meantime, analysts must obtain claims data directly from the MCOs, a much more time consuming process.

Manuals are another area of concern. Under the fee-for-service model, the one Medicaid program manual was maintained by the fiscal agent. A system was in place to make sure that the rules and regulations were uniformly applied to each and every provider. Moreover, as rules and regulations were changed updates to the manual were made and bulletins were provided that identified what the change was and when it took effect. That same level of continuity and standardization is not present under managed care.

Each managed care contractor has a manual. Further, within each network, there may be multiple manuals depending on the number of subcontractors. This creates a problem when it comes to criminal enforcement, especially if a provider is part of multiple managed care networks. What may be disallowed in one network may be permitted in the other two, making uniform application of the rules nearly impossible in some areas. The end result is potential confusion for providers and certainly for those trying to enforce the regulations. It makes an already difficult task that much more difficult.

As to the manual updates, under the managed care structure each MCO updates their manual according to their own practice and preference. Again, there is little if any uniformity. In addition, the manual updates are difficult to follow. When an update occurs the entire manual is updated. There is nothing to identify the changes. Without reviewing each page against the previous version it is difficult to know what was changed and what wasn't. And, since the entire manual is updated it can be difficult, if not impossible, to determine what period of time may be covered by a certain update. These may seem like trivial issues to most, but when it comes to enforcing the law it is important to know what the regulation was at the time the alleged violation occurred. It is also important to be able to point to knowledge of the provider. This is made much more difficult by the current system of manuals.

Finally, there are still some issues relating to communication of information by the MCOs to the Unit. It is common upon making a request for information from a MCO to be told that the information is provided to the Single State Agency program integrity staff. The problem is that information that could be helpful to the Unit in performing investigations is not being communicated to the Unit. As a result, there is little knowledge by the Unit of the MCOs fraud detection and prevention activities, other than the information that may be conveyed at the monthly program integrity meetings. As an example, the Unit was conducting an investigation of a particular provider. At a monthly program integrity meeting a discussion of this provider ensued and it was learned that all three of the MCOs had conducted or were conducting investigations of this provider involving conduct similar to that which the Unit was investigating. One MCO actually had two cases that had been opened and subsequently closed. Because the Unit is not being provided with information concerning the fraud detection activities of the MCOs the Unit had no way of knowing that an investigation or investigations were occurring. This is information that would have been helpful to the Unit, and potentially to the investigation. The Unit is working with the Single State Agency program integrity staff to identify improvements that can be made to the reporting and referral processes.

### **Caseloads**

The distribution and completion of cases continues to be a challenge for the Unit. The ongoing goal is to strive to reduce the overall time it takes to investigate and turnaround a case, while maintaining the high standards of the Unit.

The issue of opening and staffing cases has become particularly important as the Unit and the Single State Agency continue to grapple with the federal regulation regarding automatic suspension of payments by the Single State Agency. With the prospect of having a provider suspended until such time as the Unit completes the investigation, and perhaps litigation, of the matter there is an increasing awareness that the Unit must work through these cases at an even quicker, yet thorough, pace.

While in previous years the caseload issue was primarily one for the agents assigned to cases. In the last year we have experienced a change. The bottleneck now seems to be at the data analysis stage. As this can be the most time intensive portion of an investigation, this is not a real surprise. Many steps have been taken over the past few years to get a handle on caseloads, including developing thresholds and establishing criteria that can be utilized by staff in deciding whether to open a case. Unfortunately, these steps will have little, if any, impact on the current bottleneck. The Unit will continue to evaluate each case individually, attempting to prioritize the most important cases. The risk is that good cases simply may not get opened and investigated, while efforts are focused on the larger cases. Those in the Unit responsible for reviewing and assigning cases are finding that the task triaging cases is a demanding responsibility resulting in much of their time being spent on simply looking over cases to determine which cases must be opened and which cases are not able to be opened due to limited resources.

The Unit will continue to evaluate the situation throughout the next year and work with the Single State Agency, and MCOs, to develop policy and protocols to improve the process.

## Performance and Projections

For the period July 1, 2013 to June 30, 2014, the Unit obtained judgments and recoveries in Medicaid fraud matters exceeding \$28.7 million. This is the second highest recovery total in the history of the Unit. In addition to the busy year the Unit had investigating and litigating cases of fraud, waste and abuse, Unit staff made 18 presentations to more than 650 attendees, covering topics ranging from the emerging trends in healthcare fraud to techniques for conducting abuse, neglect and exploitation investigations. Finally, the Unit was actively engaged in the 2014 Kansas Legislative session, providing key testimony in support of bills that were aimed at strengthening the Medicaid Fraud Control Act and the Kansas elder/dependent adult abuse statutes.

### 42 C.F.R § 1007.17 INFORMATION

- (a) The number of investigations initiated and the number completed or closed, categorized by type of provider

	Initiated Cases	Closed Cases
<b>FRAUD</b>		
1. Hospitals		
2. Nursing Facility		
3. Other Long Term Care		1
4. Substance Abuse Treatment Centers		1
5. Other Facilities		
6. MD/DO	2	5
7. Dentist		2
8. Podiatrist		
9. Optometrist/Optician		
10. Counselor/Psychologist		
11. Chiropractor		
12. Other Practitioners		
13. Pharmacy	4	4
14. Pharmaceutical Manufacturer	23	35
15. DME		1
16. Lab		1
17. Transportation		1

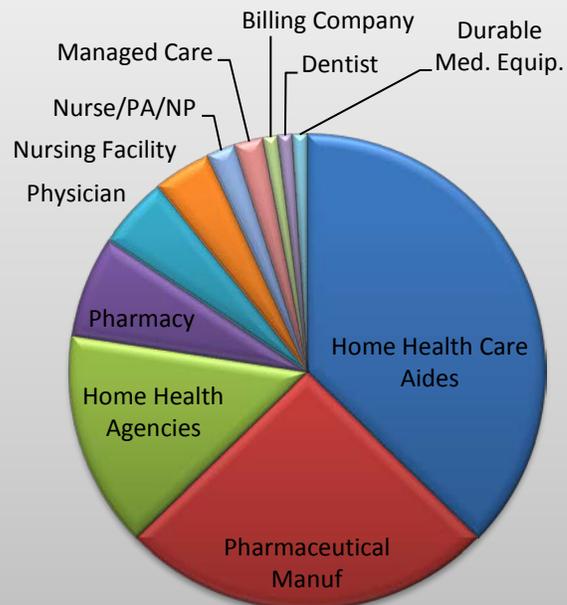
18. Home Health Care Agency	5	4
19. Home Health Care Aides	28	33
20. All Nurses/PA/NP	1	2
21. Radiology		
22. Other Medical Support		1
23. Managed Care		
24. Medicaid Program Administration		
25. Billing Company	1	
26. Other Program Related		
<b>ABUSE &amp; NEGLECT</b>		
27. Nursing Facility	3	1
28. Other Long Term Care		
29. Registered/Licensed/Nurse/PA/NP		
30. CNA		2
31. Home/Personal Care Aide		
32. Other Abuse & Neglect		
<b>PATIENT FUNDS</b>		
33. Non-Direct Care		3
34. Registered/Licensed Nurse/PA/NP		
35. CNA		
36. Other Patient Funds	1	2
<b>TOTAL</b>	<b>68</b>	<b>100</b>

## Open Cases by Case Type (as of June 30, 2014)

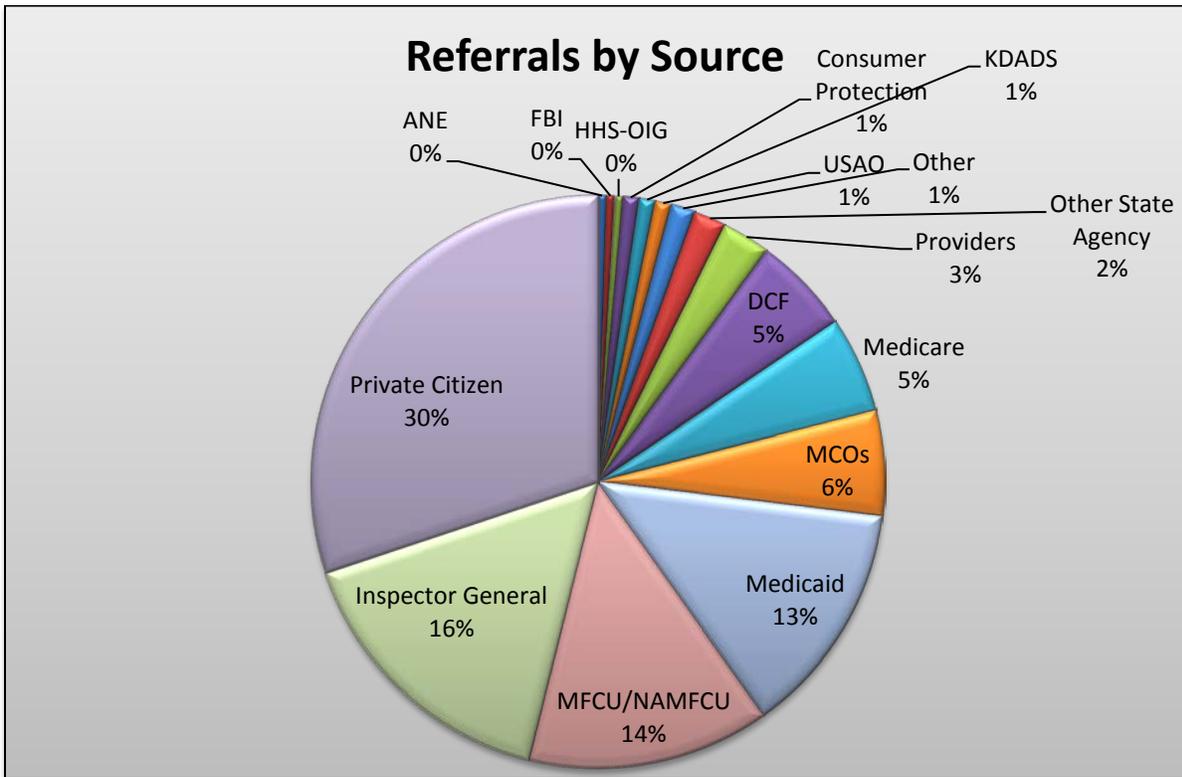


### (c) Current Case Activity

Open Cases as of 06/30/2013	144
Cases Initiated During Period	68
Less: Cases Closed/Completed	(100)
Open Cases as of 06/30/2014	112



## Open Fraud Cases by Provider Type



Number of cases prosecuted or referred for prosecution:

- 22 Criminal cases were filed/prosecuted by the Unit
- 0 Civil cases were filed by or on behalf of the Unit
- 2 Cases referred to other agencies for prosecution

Number of cases finally resolved and their outcomes:

- 13 Criminal cases that resulted in convictions by pleas of guilty or no contest
  - 5 Convictions that resulted in incarceration of defendant
  - 7 Convictions resulted in probation
- 0 Criminal cases completed through Pretrial Diversion

- 0 Criminal cases that resulted in acquittal by a judge or jury
- 2 Cases Dismissed by Unit
- 8 Civil cases settled by Settlement Agreement
- 0 Civil cases that resulted in judgments after trial
- 12 Global Cases Settled

Number of cases investigated but not prosecuted due to insufficient evidence:

- 48 Cases were investigated and closed without prosecution/litigation

- (d) Number of complaints/referrals received regarding abuse and neglect of patients in health care facilities

The Unit received 0 case referrals from the Kansas Department for Aging and Disability Services (KDADS), formerly Kansas Department on Aging, this past year.

The Attorney General has an Abuse, Neglect and Exploitation Unit (ANE) which, according to Kansas statute, is to receive all cases of substantiated abuse, neglect and exploitation, including, but not limited to, those reported to KDADS. The Unit works closely with the ANE Unit and has received reports of suspected abuse and/or exploitation from ANE.

The Unit received 7 case referrals from ANE this past year.

The Unit received 5 referrals of abuse, neglect or exploitation from other agencies.

The Unit received 6 referrals of abuse, neglect or exploitation from individuals or private entities.

Number of such complaints investigated by the Unit:

The Unit opened an investigation in 1 case that was referred by ANE.

The Unit opened 1 investigation based on referrals from other agencies, and 0 investigations based upon referrals from individuals or private entities.

Number of such complaints referred by the Unit to other state agencies:

The Unit referred 8 complaints alleging abuse, neglect or exploitation to other federal, state or local agencies.

(e) Recovery Actions

Number of recovery actions initiated by the Unit:

The Unit does not engage in recovery actions, instead referring those matters to the Single State Agency to be handled under their administrative hearing process.

Number of recovery actions referred to another agency:

There were 89 cases referred to other agencies, including the Single State Agency and/or MCOs for recovery actions.

Total amount of overpayments identified by the Unit:

For this reporting period the Unit identified and referred to the Single State Agency, and subsequently the MCOs, matters of apparent overpayments that do not rise to the level of criminal or civil action against the provider. Thus, the determination of the amount of overpayment in those instances was left up to the MCOs.

Number of recovery actions initiated by the Single State Agency under its agreement with the Unit:

The Unit has no way of independently tracking the number of actions initiated by the Single State Agency or the MCOs and must rely on the information supplied.

For this reporting period the Unit was advised that the fiscal agent initiated 27 recovery actions. No information was available regarding the recovery actions of the MCOs.

(f) Total amount of judgments/recoveries obtained by the Unit:

**Global Cases:**

\$11,661,026.15 (This number includes both the federal and state shares of global case settlements pursued in conjunction with the National Association of Medicaid Fraud Control Units, but does not include any penalties, attorneys fees or costs recovered in those settlements.)

**Criminal Cases:**

\$2,259,348.62 was ordered as restitution in criminal fraud cases completed by the Unit in which a conviction was obtained. This amount will be collected by the Single State Agency.

\$6,053.40 in restitution was ordered to be repaid to victims of abuse, neglect, or exploitation based upon convictions obtained by the Unit.

**Civil Cases:**

\$14,846,942.07 was recovered as a result of civil judgments obtained by the Unit. The proceeds of these settlements were paid to the Single State Agency.

Total amount of overpayments actually collected by the Single State Agency under its agreement with the Unit:

Pursuant to the MOU, the Single State Agency is to prepare a quarterly report showing all overpayments collected on the criminal convictions obtained by the Unit. Due to recent personnel changes and reorganization due to the switch to managed care, the Single State Agency has not been able to maintain this report; therefore the Unit has been unable to obtain figures for the amount of overpayments collected by the Single State Agency.

According to information provided to the Unit by the fiscal agent of the Single State Agency, for the period of this report \$1,796,192.56 was identified as overpayments for recoupment. During this same period of time the fiscal agent reported recovering \$1,760,503.89 through the recoupment process leaving an outstanding balance of \$10,607,477.18. Again, no information was provided to the Unit regarding the recovery efforts of the MCOs.

(g) Projections for next 12 months

250	Projected fraud referrals
20	Projected abuse referrals
112	Investigations projected to be opened
29	Criminal cases projected to be filed
4	Cases projected to be finalized to civil judgment
115	Total cases to be closed

(h) Costs incurred by the Unit

Total federal and state direct costs during this reporting period:

\$1,214,677.82

Total federal and state indirect costs during this reporting period:

\$85,265.28

Total Costs incurred by the Unit:

\$1,299,943.10

## ***2014 Kansas Legislative Session***

The 2014 legislative session proved to be a very active one for the Unit. Two major legislative initiatives were proposed, resulting in major changes to the laws utilized by the Unit in carrying out our duties and responsibilities.

To begin with, the Unit proposed the first significant amendments to the Kansas Medicaid Fraud Control Act since it was adopted in 1995. This included adding a new definition of what constitutes Medicaid fraud. The most significant change involved the sentencing provisions for those convicted of committing Medicaid fraud. Prior to the 2014 session amendments a conviction of Medicaid fraud in Kansas was going to, in nearly every instance, result in probation for the offender, regardless of the loss to the Medicaid program. Effective July 1, 2014, the penalty provisions were enhanced to allow for a potential prison sentence, depending upon the dollar amount involved. In addition, provisions were added that allowed for enhancement of the penalty if great bodily harm or death resulted from the fraud committed.

Lastly, a provision was added making it an aggravating factor, for sentencing purposes, if the act or omission resulted in lesser quality or amount of services than the Medicaid consumer was entitled to receive. This, too, could result in incarceration for the convicted provider.

The other legislation related to the statute utilized by the Unit to prosecute resident abuse, neglect and exploitation. While one of the more significant changes was the addition of elder persons (defined as 70 years of age or older) to the intended victims, the change that benefited the Unit was the clarification of what constitutes financial exploitation, both of elder persons and dependent adults (residents). The changes make it much clearer, both to perpetrators and law enforcement, what constitutes financial exploitation of a vulnerable adult.

## ***Public Awareness***

In addition to receiving training for staff, as set forth above, the Unit recognizes the important role of providing training and education to others. It is an important function of the Unit to educate others about the purpose and objectives of the Unit. Through our presentations the Unit has been able to reach out to the public and those working in the industry. While this serves to educate those in attendance, it has the added benefit of resulting in an increased number of referrals to the Unit of potential cases of fraud and abuse. The Unit continues to explore new and innovative ways to deliver our message, which will include participating in webinars in the upcoming year.

In addition to the educational programs, the Unit has developed an online referral form that members of the public may access at the Kansas Attorney General's website and utilize in making referrals of suspected fraud to the Unit.

A chart setting forth the presentations made by Unit staff during the reporting period is set forth in Appendix D.

## **Significant Cases**

### **State v. Tolliver**

On March 18, 2013, James Robert Tolliver was charged in Harvey County, Kansas, District Court with one count of attempted rape. The charges stemmed from a report made to the Sedgwick Police Department. According to testimony, Tolliver, a Certified Nurse Aid (CNA) was found in the room of a basically non-responsive and non-ambulatory, resident of the Sedgwick HealthCare Center, naked from the waist down standing at the bedside of the victim, who was also naked from the waist down. Upon being contacted by the Sedgwick Police Department the Unit completed the investigation and filed the criminal charges. A jury trial was conducted in the matter, at which Tolliver was convicted on December 13, 2013, of one count of aggravated sexual battery, an alternative count to the original attempted rape charge. Tolliver was sentenced to 130 months in the Kansas Department of Corrections.

### **Dr. Albert Natanov**

This matter was referred to the Unit by the Single State Agency after a review was conducted by the State' Surveillance Utilization Review Subsystem (SURS). An investigation was conducted by the Unit in which dental records from Dr. Natanov's practice covering a period of time spanning three and one-half years were reviewed. The investigation identified \$52,126.84 in overpayments for services that were allegedly billed as unbundled services that should have been bundled. The parties entered into negotiations and an out-of-court settlement was reached. It should be noted that Dr. Natanov denies any wrongdoing.

### **Average Wholesale Price (AWP) Litigation**

The Unit remains actively involved with outside counsel in the Average Wholesale Price (AWP) case litigation that was initially filed beginning in 2008. For the reporting period seven defendants settled with the State of Kansas, bringing the total number of settled cases in this litigation to 37, and leaving two (2) cases to be completed.

The AWP case settlements reached during this reporting period resulted in nearly \$14.8 million being repaid to the Kansas Medicaid Program.

# Appendix A: 2013-14 Grant Award Notice



DEPARTMENT OF HEALTH AND HUMAN SERVICES  
**OFFICE OF INSPECTOR GENERAL**  
 WASHINGTON, DC 20201



## Notice of Award

**Grant Number:** 1401KS5050  
**Amendment:** 0  
**Grant Period:** 10/01/2013 -- 09/30/2014

**Grantee:**  
 Kansas Attorney General  
 Medicaid Fraud and Abuse Division

**Director:** Loren Snell

**CFDA:** 93.775

**Program Title:** State Medicaid Fraud Control Units

**EIN:** 48602992515

**DUNS:** 149819976

**CAN:** 4-1994755

**Appropriation:** 75X0512

**Object Class:** 41501

**Total Approved Budget:** \$1,630,256  
**Federal Share (FFP) 75%:** \$1,222,692  
**Non-Federal Share 25%:** \$407,564

Federal funding will be administered in quarterly disbursements as follows:

Quarter	Federal Share	Match	Cumulative Fed Award	Cum. Match
10/01/13 -- 12/31/13	\$305,673	\$101,891	\$305,673	\$101,891
01/01/14 -- 03/31/14	\$305,673	\$101,891	\$611,346	\$203,782
04/01/14 -- 06/30/14	\$305,673	\$101,891	\$917,019	\$305,673
07/01/14 -- 09/30/14	\$305,673	\$101,891	\$1,222,692	\$407,564

**Additional Action(s):**

**Remarks:**

### OIG Contact Information and Authorizing Signatures

Susan Burbach, OEI Program Analyst

Alexis Crowley, Grants Management Officer

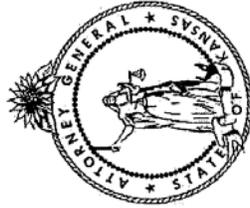
Jason McConachy, Budget Officer

*Alexis Crowley*  
*J. J. [Signature]*

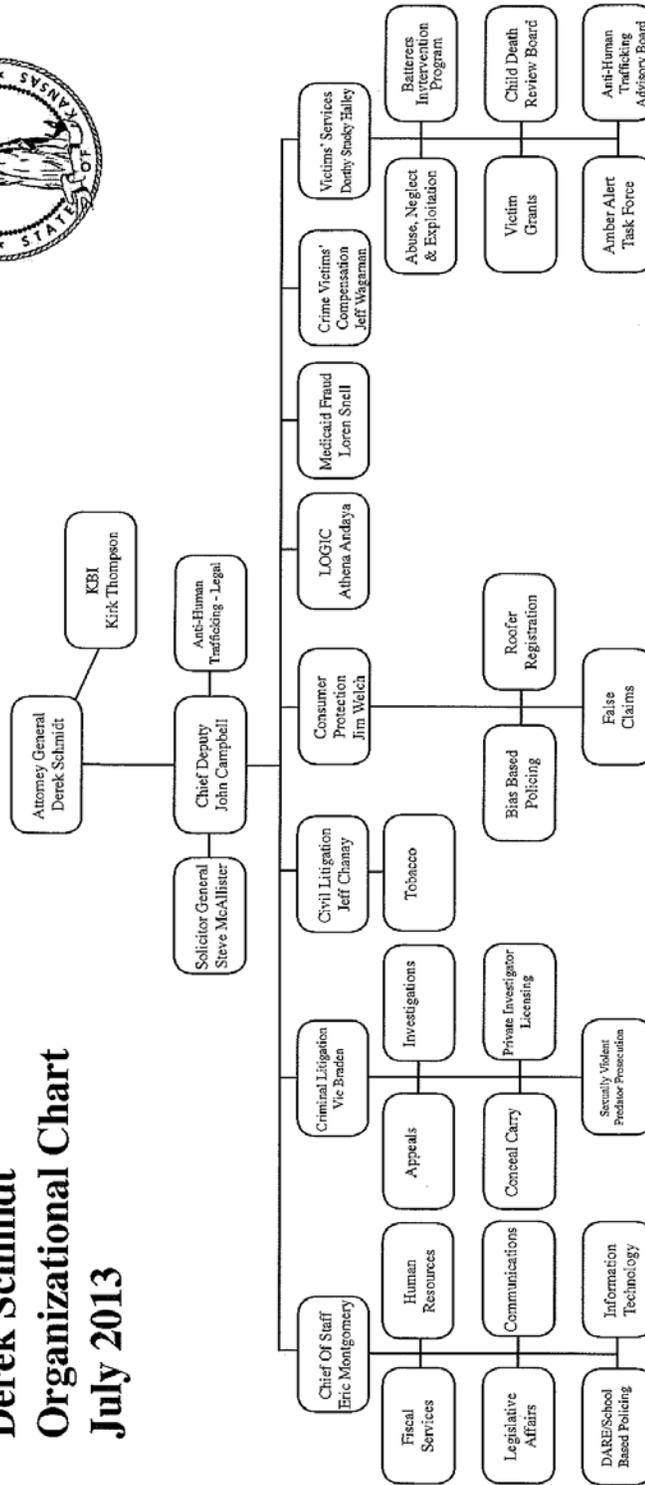
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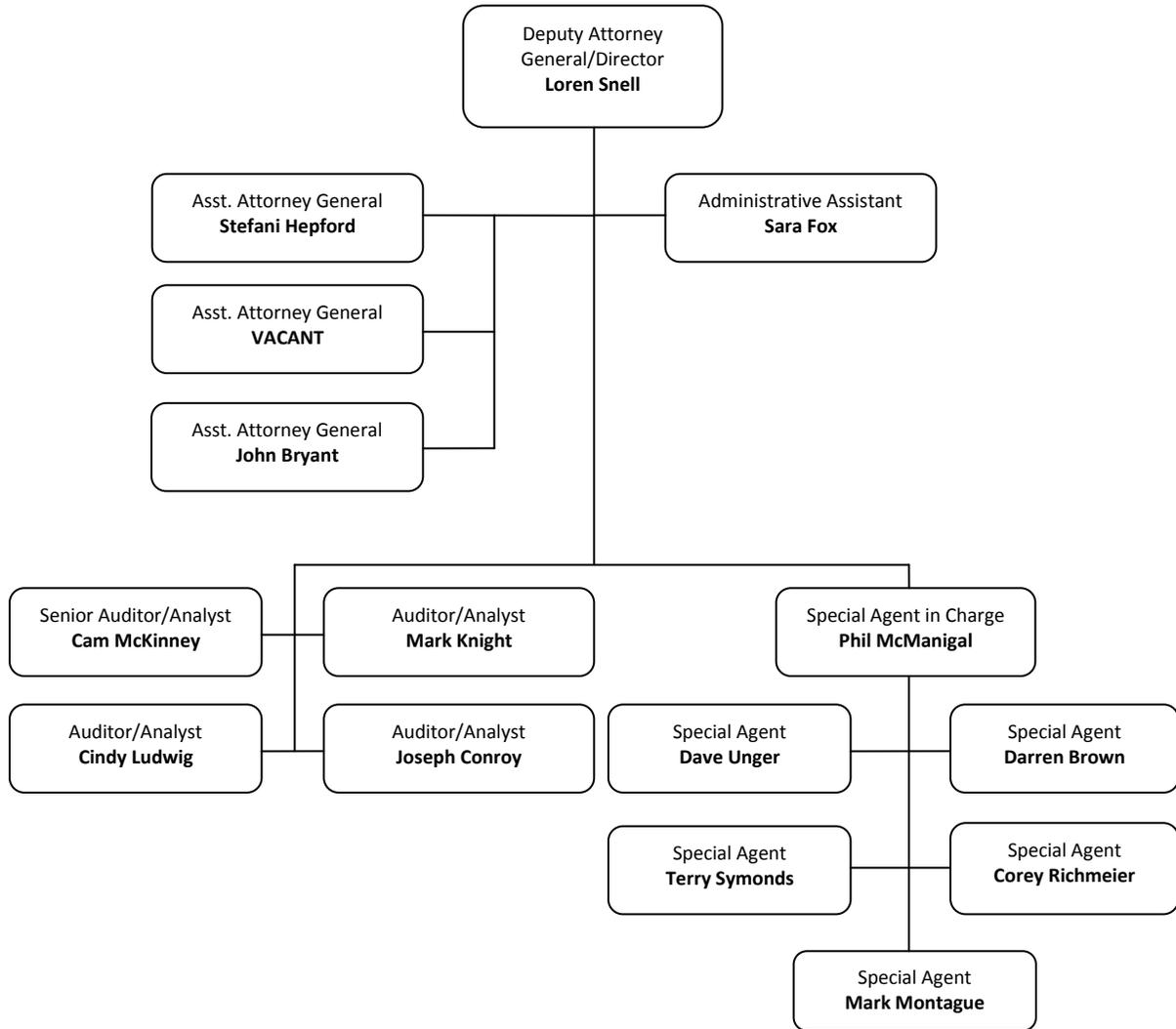
# Appendix B: Organizational Charts



## Kansas Attorney General Derek Schmidt Organizational Chart July 2013



# Kansas Attorney General Derek Schmidt Medicaid Fraud & Abuse Division Organizational Chart



## Appendix C: 2013-14 Training Report

ATTENDEE	DATE	TRAINING & SPONSOR	LOCATION	TOTAL HRS	ETHCS
<b>Loren F. Snell, Jr.</b>	7/16/13	Racial and Biased Based Policing, KSAG	Topeka, KS	1	
	9/6/13	Immunity of Self-Defense, KSAG	Columbus, KS	1	
	9/6/13	Stick to the Evidence: Avoiding Ethical Pitfalls in Closing Argument and Voir Dire, KSAG	Columbus, KS	1	1
	9/6/13	The Practical Effects of Recent Appellate Case Law	Columbus, KS	1	
	9/13/13	Attorney General's Call, KSAG	Oskaloosa, KS	2	
	9/16/13	Prosecuting Identity Theft, KSAG	Wellington, KS	1	
	9/17/13	Reading the Tea Leaves: Law Enforcement Trends in Kansas, KSAG	Dodge City, KS	1	
	9/24-25/13	Management and Leadership in the Office of the Kansas Attorney General, NAGTRI	Topeka, KS	14	
	10/7-10/13	2013 NAMFCU Annual Training Program, NAMFCU	Mobile, AL	12	
	10/18/13	Attorney General's Spring CLE, KSAG	Topeka, KS	3	1
	10/23/13	Pharmaceutical Fraud Trends, HHS-OIG	Topeka, KS (Webinar)	1	
	1/30/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/12/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/11/14	Active Shooter Awareness, KSAG	Topeka, KS	1	
	3/28/14	Attorney General's Spring CLE, KSAG	Topeka, KS	2	

## Appendix C: 2013-14 Training Report

	5/21/14	Civil Rights Training: Harassment Prevention, KSAG	Topeka, KS	1	
	6/2/14	Westlaw Training, KSAG	Topeka, KS	2	
	6/17/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Stefani Hepford</b>	9/10/13	Attorney General's Call, KSAG	Lincoln, KS	2	1
	10/14/13	KCDAA Fall Conference, KCDAA	Overland Park, KS	1.5	
	10/18/13	Attorney General's Fall CLE, KSAG	Topeka, KS	1.5	
	10/23/13	Pharmaceutical Fraud Trends, HHS-OIG	Topeka, KS (Webinar)	1	
	12/9/13	Legal Ethics and Professional Responsibility, KSAG	Topeka, KS	1	1
	1/30/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/12/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/11/14	Active Shooter Awareness, KSAG	Topeka, KS	1	
	3/28/14	Attorney General's Spring CLE, KSAG	Topeka, KS	2	1
	3/28/14	Recent US Supreme Court Decisions, KSAG	Topeka, KS	1	
	6/17/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Kasey Rogg</b>	7/16/13	Racial and Biased Based Policing, KSAG	Topeka, KS	1	
<b>John Bryant</b>	7/22-26/13	Medicaid Fraud 101, NAMFCU	Tacoma, WA	24	
	9/24-25/13	Management and Leadership in the Office of the Kansas Attorney General, NAGTRI	Topeka, KS	14	
	10/18/13	Attorney General's Fall CLE, KSAG	Topeka, KS	6	

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	12/9/13	Westlaw Training, KSAG	Topeka, KS	1	
	1/31/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/12/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/3/14	Active Shooter Awareness, KSAG	Topeka, KS	1	
	3/28/14	Attorney General's Spring CLE, KSAG	Topeka, KS	2	
	5/21/14	Civil Rights Training: Harassment Prevention, KSAG	Topeka, KS	1	
	6/2/14	Westlaw Training, KSAG	Topeka, KS	2	
	6/12/14	Elder Abuse Training, Johnson County District Attorney	Olathe, KS	6	
	6/17/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Phil McManigal</b>	7/10-12/13	Topeka Violent Crime Drug, Drug, and Gang Conference, KBI and Topeka Police Dept	Topeka, KS	20	
	7/16/13	Racial and Biased Based Policing, KSAG	Topeka, KS	2	
	8/16/13	Firearms Qualification and Range Safety, KSAG	Holton, KS	3	
	9/9/13	Firearms Qualification and Range Safety, KSAG	Holton, KS	3	
	9/20/13	Firearms Qualification and Range Safety, KSAG	Holton, KS	2	
	9/24-25/13	Management and Leadership in the Office of the Kansas Attorney General, NAGTRI	Topeka, KS	14	
	10/23/13	Pharmaceutical Fraud Trends, HHS-OIG	Topeka, KS (Webinar)	1	
	10/25/13	Firearms Training, KSAG	Holton, KS	3	

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	11/21/13	Surveillance Equipment and Procurement Practices, Kansas Intelligence Assoc.	Topeka, KS	1	
	1/31/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/12/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/2/14	Active Shooter Awareness, KSAG	Topeka, KS	1	
	3/21/14	Firearms Training, KSAG	Holton, KS	3	
	3/27/14	Bitcoins, Kansas Intelligence Assoc.	Topeka, KS	1.5	
	4/1-2/14	KBI In Service, KBI	Topeka, KS	11.75	
	4/16/14	MOCIC, MOCIC	Topeka, KS	1	
	5/20/14	Officer Involved Shootings and Homicide Case Studies, M-Squad	Lawrence, KS	8	
	5/21/14	Civil Rights Training: Harassment Prevention, KSAG	Topeka, KS	1	
	6/17/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Darren Brown</b>	7/16/13	Racial and Biased Based Policing, KSAG	Topeka, KS	2	
	9/9/13	Firearms Qualification and Range Safety, KSAG	Holton, KS	3	
	10/23/13	Pharmaceutical Fraud Trends, HHS-OIG	Topeka, KS (Webinar)	1	
	10/25/13	Firearms Training, KSAG	Holton, KS	3	
	1/31/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/13/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/2/14	Active Shooter Awareness, KSAG	Topeka, KS	1	
	3/21/14	Firearms Training, KSAG	Holton, KS	3	
	4/1-2/14	KBI In Service, KBI	Topeka, KS	7.75	

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	5/20-22/14	M-Squad School, M-Squad	Lawrence, KS	17	
	5/28/14	One on One with Alcohol, Tobacco, Firearms and Explosives	Topeka, KS	1	
	6/12/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Mark Montague</b>	7/16/13	Racial and Biased Based Policing, KSAG	Topeka, KS	2	
	8/16/13	Firearms Qualification and Range Safety, KSAG	Holton, KS	3	
	9/9/13	Firearms Qualification and Range Safety, KSAG	Holton, KS	4	
	10/23/13	Pharmaceutical Fraud Trends, HHS-OIG	Topeka, KS (Webinar)	1	
	10/25/13	Firearms Training, KSAG	Holton, KS	3	
	10/28-29/13	KBI In Service, KBI	Wichita, KS	13.5	
	1/30/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/12/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/2/14	Active Shooter Awareness, KSAG	Topeka, KS	1	
	3/21/14	Firearms Training, KSAG	Holton, KS	3	
	5/20-22/14	2014 M-Squad School, M-Squad	Lawrence, KS	16.5	
	6/12/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Terry Symonds</b>	8/16/13	Firearms Qualification and Range Safety, KSAG	Holton, KS	3	
	10/25/13	Firearms Training, KSAG	Holton, KS	3	
	10/28-29/13	Preserve & Collect Volatile Data, Kansas Internet Crimes Against Children Task Force	Wichita, KS	13.5	

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	11/21/13	Surveillance Equip and Procurement Practices, Kansas Intelligence Assoc.	Topeka, KS	1	
	1/30/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/11/14	Biased Based Policing Update,	Topeka, KS	1	
	2/12/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/2/14	Active Shooter Awareness, KSAG	Topeka, KS	1	
	3/21/14	Firearms Training, KSAG	Holton, KS	3	
	4/1/14	KBI Inservice, KBI	Topeka, KS	6.75	
	4/8-11/14	Financial Records Examination & Analysis, Topeka Police Department	Topeka, KS	32	
	6/12/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Dave Unger</b>	7/10-12/13	Topeka Violent Crime Drug, Drug, and Gang Conference, Kansas Bureau of Investigation and Topeka Police Department	Topeka, KS	20	
	7/16/13	Racial Profiling and Biased Based Policing, KSAG	Topeka, KS	2	
	7/22/13	Managing the Property and Evidence Room, Kansas City Missouri Police academy	Kansas City, MO	14	
	8/16/13	Firearms Qualification and Range Safety, KSAG	Holton, KS	3	
	10/23/13	Pharmaceutical Fraud Trends, HHS-OIG	Topeka, KS (Webinar)	1	
	10/25/13	Firearms Training, KSAG	Holton, KS	3	

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	1/30/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/12/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/11/14	Active Shooter Awareness, KSAG	Topeka, KS	1	
	3/21/14	Firearms Training, KSAG	Holton, KS	3	
	4/8-11/14	Financial Records Examination & Analysis Training, Topeka Police Department	Topeka, KS	32	
	4/16/14	MOCIC, MOCIC	Topeka, KS	1	
	6/12/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Corey Richmeier</b>	7/16/13	Racial and Biased Based Policing, KSAG	Topeka, KS	2	
	8/16/13	Firearms Qualification and Range Safety, KSAG	Holton, KS	3	
	10/24/13	Prescription Drug Abuse Diversion Investigations, Topeka Police Department	Topeka, KS	6.5	
	10/25/13	Firearms Training, KSAG	Holton, KS	3	
	11/19-22/13	Detective and New Criminal Investigator, Kansas City Missouri Police Academy	Kansas City, MO	31.8	
	1/30/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/12/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/2/14	Active Shooter Awareness, KSAG	Topeka, KS	1	
	3/21/14	Firearms Training, KSAG	Holton, KS	3	
	3/27/14	Bitcoins, Kansas Intelligence Assoc.	Topeka, KS	1.5	
	4/1-2/14	KBI Inservice, KBI	Topeka, KS	11.75	

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	4/8-11/14	Financial Records Examination & Analysis, Topeka Police Department	Topeka, KS	32	
	6/17/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Cam McKinney</b>	7/16/13	Racial and Biased Based Policing, KSAG	Topeka, KS	1	
	10/23/13	Pharmaceutical Fraud Trends, HHS-OIG	Topeka, KS (Webinar)	1	
	1/31/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
		IT Security Awareness, KSAG	Topeka, KS	.5	
		Active Shooter Awareness, KSAG	Topeka, KS	1	
	6/17/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Mark Knight</b>	7/16/13	Racial and Biased Based Policing, KSAG	Topeka, KS	1	
	10/18/13	Attorney General's Fall CLE, KSAG	Topeka, KS	6	
	1/30/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/13/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/3/14	Active Shooter Awareness, KSAG	Topeka, KS	1	
	3/28/14	Attorney General's Spring CLE, KSAG	Topeka, KS	6	1
	6/17/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Cynthia Ludwig</b>	7/16/13	Racial and Biased Based Policing, KSAG	Topeka, KS	1	
	10/23/13	Pharmaceutical Fraud Trends, HHS-OIG	Topeka, KS (Webinar)	1	
		Ethics for Government Employees, KSAG	Topeka, KS	1	1
		IT Security Awareness, KSAG	Topeka, KS	.5	
	3/11/14	Active Shooter Awareness, KSAG	Topeka, KS	1	

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	4/8-11/14	Financial Records Examination & Analysis, Topeka Police Department	Topeka, KS	32	
	6/17/14	KORA/KOMA, KSAG	Topeka, KS	1	
<b>Quincie Ingram</b>	7/16/13	Racial and Biased Based Policing, KSAG	Topeka, KS	1	
	1/30/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/13/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/11/14	Active Shooter Awareness, KSAG	Topeka, KS	1	
<b>Rachel Eddy</b>					
	1/30/14	Ethics for Government Employees, KSAG	Topeka, KS	1	1
	2/12/14	IT Security Awareness, KSAG	Topeka, KS	.5	
	3/2/14	Active Shooter Awareness, KSAG	Topeka, KS	1	

## Appendix D: 2013-14 Presentations

<b>PRESENTER</b>	<b>DATE</b>	<b>EVENT</b>	<b>TITLE</b>	<b>ATTEND.</b>
Loren Snell	8/21/13	NAMPI Annual Conference, Baltimore, MD	State Medicaid Fraud Enforcement Efforts	200+
Loren Snell	9/6/13	KSAG Call, Columbus, KS	Medicaid Fraud and Abuse Division of the Kansas Attorney General's Office	8
Loren Snell	9/13/13	KSAG Call, Oskaloosa, KS	Medicaid Fraud and Abuse Division of the Kansas Attorney General's Office	9
Loren Snell	9/16/13	KSAG Call, Wellington, KS	Medicaid Fraud and Abuse Division of the Kansas Attorney General's Office	8
Loren Snell	9/17/13	KSAG Call, Dodge City, KS	Medicaid Fraud and Abuse Division of the Kansas Attorney General's Office	14
Stefani Hepford	9/24/13	2013 Sunflower Fair, Session 1, Salina, KS	The Family that Preys Together: When Elder Abuse Hits Home	16
Stefani Hepford	9/24/13	2013 Sunflower Fair, Session 2, Salina, KS	The Family that Preys Together: When Elder Abuse Hits Home	24
Stefani Hepford	10/4/13	El Dorado Senior Fair, El Dorado, KS	Medical Identity Theft	30
Stefani Hepford	10/4/13	El Dorado Senior Fair, El Dorado, KS	The Family That Preys Together: When Elder Abuse Hits Home	22

## Appendix D: 2013-14 Presentations

Loren Snell	10/15/13	2013 Kansas County District Attorney s Association Fall Conference, Overland Park, KS	Prosecuting Elder Abuse	31
Loren Snell	3/6/14	Medicaid Fraud 101, Baltimore, MD	Developing and Organizing Evidence and Exhibits in a Health Care Fraud Case	57
Loren Snell	4/25/14	Full Circle...An Aging Expo, Hays, KS	Crimes and Punishment: Protecting the Elderly	30
Loren Snell	5/1/14	AAPC Wichita Chapter Meeting, Wichita, KS	Current Trends in Healthcare Fraud	45
Loren Snell	5/13/14	Governor and Attorney General's Annual Crime Victims' Rights Conference, Topeka, KS	Emerging Trends in Healthcare Fraud, Waste, and Abuse	12
Loren Snell	5/20/14	AAPC Topeka Chapter Meeting, Topeka, KS	Health Care Fraud	39
Loren Snell	5/22/14	2014 M-Squad School, Lawrence, KS	Investigating Vulnerable Adult Abuse, Neglect, and Exploitation	56
Loren Snell	6/4/14	The Prevention of Elder Abuse, Neglect and Exploitation Conference, Augusta, KS	Social Media	22
Loren Snell	6/25/14	Elder Abuse Awareness Event	2014 Legislative Update	32